

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

JUAN MARTINEZ, JOSE-PIMENTAL, CARLOS
CONTRERAS, EFRAIN REYES, and JOWANY
CASTILLO,

Case No.

Plaintiffs, 21-cv-3613(GRB)(JMW)

v.

FELIKS & SON STORAGE TANK CORP.,
FELIKS & SON SERVICES, LLC, and FELIKS
SWIERZEWSKI

Defendants.

**DECLARATION OF STEVEN J. MOSER IN OPPOSITION TO THE CORPORATE
DEFENDANTS' MOTION TO VACATE**

I, Steven J. Moser, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am the attorney representing the Plaintiffs herein.

The Swierzewski Affidavit

2. Feliks Swierzewski submitted an affidavit in support of the Corporate Defendants' Motion to Vacate on July 8, 2022 (dated July 6, 2022).

3. On September 1, 2022, following a review of Mr. Swierzewski's affidavit, I emailed Defendants' counsel requesting a supplemental affidavit containing information when the Defendants became aware of the lawsuit and the steps taken upon learning thereof. A copy of this email is annexed hereto as Exhibit 1.

4. Defendants declined to supplement the affidavit with specific facts showing when they became aware of the lawsuit, the actions they took, and the dates on which they took action to defend the case.

5. As the Corporate Defendants have declined to supplement the affidavit with specific facts showing when they became aware of the lawsuit and that they acted diligently upon learning of the lawsuit, plaintiffs request that the motion to vacate be denied.

The Corporate Defendants' Compliance With New York Law

6. According to the Corporate Defendants, 191 Tulip Ave, Floral Park, New York, 11001 has not been their principal place of business since 2018.

7. According to the Corporate Defendants, when this action was commenced in 2021, they still had not yet updated their addresses on file with the Secretary of State.

8. According to the Department of State website, as of September 14, 2022, the Defendants' addresses on file are still incorrect and have not been updated as required by law. A true and accurate copy of the address information retrieved from the Secretary of State website for Feliks & Son Storage Tank Corporation and Feliks & Son Services, LLC are annexed hereto as Exhibits 2 and 3, respectively.

9. According to the Department of State website, Feliks & Son Storage Tank Corporation did not file any biennial statement in 2016, 2018, 2020 or 2022 as required by law. A true and accurate copy of the filing history information retrieved from the Secretary of State website for Feliks & Son Storage Tank Corporation is annexed hereto as Exhibit 4.

10. According to the Department of State website, Feliks & Son Services, LLC did not file any biennial statement in 2016, 2018 or 2020 as required by law. A true and accurate copy of the filing history information retrieved from the Secretary of State website for Feliks & Son Services, LLC is annexed hereto as Exhibit 5.

11. According to the Department of State website, Feliks & Son Services, LLC filed a biennial statement on December 14, 2021 (after commencement of this action). *See* Exhibit 5.

However, the 2021 statement did not correct the address of Feliks & Son Services, LLC. *See Exhibit 3.*

12. According to the Department of State website, Feliks & Son Services, LLC did not file a biennial statement in 2022 as required by law. *See Exhibit 5.*

13. As the Corporate Defendants have disregarded their obligations under New York Law since 2016, plaintiffs request that the motion to vacate be denied.

I declare under penalty of perjury, that the foregoing is true and correct.

Dated: September 14, 2022

Steven J. Moser

Steven J. Moser